

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

In re:

M. BURTON MARSHALL,
a/k/a BURT MARSHALL,
a/k/a MILES BURTON MARSHALL, *et al.*,

Case No. 23-60263-PGR
Chapter 11 (Main case)
Case No. 23-60723-PGR
(Jointly Administered)

Debtors.

**STIPULATION AND AGREED ORDER EXTENDING TIME FOR
U.S. SECURITIES AND EXCHANGE COMMISSION TO TAKE
ACTION TO DETERMINE THE DISCHARGEABILITY OF A
DEBT PURSUANT TO 11 U.S.C. § 1141(d)(6)(A)**

WHEREAS, Section 1141(d)(6)(A) of title 11 of the United States Code (the “Bankruptcy Code”) provides that “the confirmation of a plan does not discharge a debtor that is a corporation from any debt (A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit...”; and

WHEREAS, the staff of the U.S. Securities and Exchange Commission (the “Commission”) believes that Section 523(c) of the Bankruptcy Code (and the corresponding

deadline in Bankruptcy Rule 4007(c)) is inapplicable with respect to the dischargeability of a debt under Section 1141(d)(6)(A), *see In re Hawker Beechcraft, Inc.*, 515 B.R. 416 (S.D.N.Y. 2014); and

WHEREAS, the debtor Miles B. Marshall, Inc. (the “Corporate Debtor”) does not concede the correctness of the Commission’s position; and

WHEREAS, if the Section 523(c)/Rule 4007(c) deadline were to apply to actions under Section 1141(d)(6)(A), then the initial deadline in this case for the Commission to file a dischargeability complaint against the Corporate Debtor under Section 1141(d)(6)(A) (the “Dischargeability Complaint”) would be December 26, 2023 (the “Current Deadline”); and

WHEREAS, the Corporate Debtor and the Commission believe that litigating dischargeability issues at this stage of the case would be premature and not an efficient use of time or estate resources; and

WHEREAS, although the Commission believes that it may file a Dischargeability Complaint or take whatever action may be required, if any, to determine the dischargeability of any debt owing by the Corporate Debtor to the Commission pursuant to Section 1141(d)(6)(A) at any time, including following the confirmation of a Chapter 11 Plan, without binding precedent in this case, the Commission seeks, and the Corporate Debtor has agreed, to extend the Current Deadline for the Commission to file a Dischargeability Complaint through and including June 26, 2024 (the “Extended Deadline”), without prejudice to the Commission’s right to seek further extensions, and without prejudice to the rights of the Corporate Debtor and other parties in interest to oppose any such extensions; and

NOW, THEREFORE, the Corporate Debtor and the Commission have STIPULATED AND AGREED that the deadline for the Commission to file a Dischargeability Complaint will be

the Extended Deadline, without prejudice to the Commission's right to seek further extensions, and without prejudice to the rights of the Corporate Debtor and other parties in interest to oppose any such extensions. Further, nothing in this Stipulation and Agreed Order constitutes a determination that any deadline exists for the Commission to seek a determination of nondischargeability under Section 1141(d)(6)(A) of the Bankruptcy Code.

IN WITNESS WHEREOF, the parties have caused this Stipulation to be executed by their duly authorized representatives as of the date set forth below.

Dated: New York, New York
December 12, 2023

Dated: Syracuse, New York
December 12, 2023

**KLESTADT WINTERS
JURELLER SOUTHARD &
STEVENS, LLP**

**UNITED STATES SECURITIES
AND EXCHANGE COMMISSION**

By: /s/ Fred Stevens
Fred Stevens
Lauren C. Kiss
200 West 41st Street, 17th Floor
New York, New York 10036
Tel: (212) 972-3000
Email: fstevens@klestadt.com
lkiss@klestadt.com

By: /s/ Neal Jacobson
Neal Jacobson
New York Regional Office
100 Pearl Street, Suite 20-100
New York, New York 10004
Tel: (212) 336-0095
Email: Jacobsonn@sec.gov

Counsel to the Corporate Debtor